IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WP(C).No. 31359 of 2007(G)

PETITIONER:

K.N.PONNAMMA,
(RTD.ASST.PROJECT OFFICER)FAISAL, S/O.ALI,
MAYITHARA HOUSE, PALLAM. P.O.
KOTTAYAM-7.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

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1. STATE OF KERALA, REP. BY IT'S
PRINCIPAL SECRETARY TO GOVT.
DEPT. OF LOCAL SELF GOVT.
(RURAL DEVELOPMENT -EB), THIRUVANANTHAPURAM.

2. THE COMMISSIONER FOR RURAL DEVELOPMENT
COMMISSIONERATE OF RURAL DEVELOPMENT,
LMS COMPOUND, VIKAS BHAVAN P.O.
THIRUVANANTHAPURAM.

3. THE ACCOUNTANT GENERAL,
(A&E), KERALA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1: COPY OF THE RECEIPT ISSUED BY SMT. SHANTHI RAJAPPAN TO ANTONY DATED 6.4.2004

EXHIBIT-P2: COPY OF THE NOTICE DATED 14.11.2005 ISSUED BY THE KOTTAYAM DISTRICT PANCHAYAT TO SMT. SHANTHI RAJAPPAN

EXHIBIT-P3: COPY OF THE NOTICE DATED 14.11.2005 ISSUED BY THE KOTTAYAM DISTRICT PANCHAYAT TO SRI. K.C. ANTONY

EXHIBIT-P4: COPY OF THE CHARGE MEMO NO.EST.A2/24834/05/CRD DATED 25.11.2005 ISSUED BY THE 2ND RESPONDENT

EXHIBIT-P5: COPY OF THE REPLY DATED 21.12.2005 SUBMITTED BY THE PETITIONER

EXHIBIT-P6: COPY OF THE NOTICE DATED 1.6.2006 ISSUED BY THE 1ST RESPONDENT

EXHIBIT-P7: COPY OF THE CHARGE MEMO NO.4700/EB4/06/LSG DATED 16.8.2006 ISSUED BY THE 1ST RESPONDENT

EXHIBIT-P8: COPY OF THE REPLY DATED 21.12.2005 SUBMITTED BY THE PETITIONER

EXHIBIT-P9: COPY OF THE COMMUNICATION DATED 20.1.2007 ISSUED BY THE 2ND RESPONDENT

EXHIBIT-P10: COPY OF THE NOTICE NO.31237/ERBI/07/LSG DATED 9.8.07 ISSUED BY THE SECRETARY TO GOVT. DEPT. OF LOCAL SELF GOVT.

V.GIRI,J.

W.P (C) No.31359 of 2007

Dated this the 23rd October, 2007

J U D G M E N T

Petitioner retired from service on 31.1.2007. Proceedings were initiated against her while she was in service, under Kerala Civil Service (classification, control and appeal) Rules, 1960 for dereliction of duty and causing loss to the tune of Rs.2,90,000/- to the Government, as evidenced by Exhibit-P4. Petitioner gave an explanation Exhibit-P7 charge memo was issued thereafter. In the meanwhile, petitioner retired on 31.1.2007. If at all, the disciplinary proceedings can now continue only for the purpose of Rule 3 of Part III of K.S.R. In so far as the fixation of the liability is concerned, the Government is entitled to fix the same, within a period of three years from the date of retirement. Exhibit-P10 notice has been issued to the petitioner proposing fixation of the liability to the tune of Rs.2,90,000/-.

2. Learned Counsel for the petitioner submits that there is a direction to make the payment in Exhibit-P10. I have gone through Exhibit-P10. In my view, the same is liable to be treated as a show cause notice. At any rate, the liability in so far as the Government Servant is concerned, cannot be fixed unless

he has been given an opportunity to show cause against the proposal as such. Petitioner also has a grievance that provisional pension has not been given to her .

In the circumstances, after hearing the learned counsel for the petitioner and the learned Government Pleader, this writ petition is disposed of in the following terms.

i) Exhibit-P10 shall be treated as a show cause notice and the petitioner shall be permitted to file objections thereto within a period of one month from today;

ii) On receipt of the petitioner's objections, the 1st respondent shall hear the petitioner and then pass a final order taking note of the petitioner's objections in that regard.

iii) The 1st respondent shall also take a decision with regard to the grant of provisional pension to the petitioner, within a period of one month from the date of receipt of the copy of the judgment.

iv) To enable the 1st respondent to do so, the petitioner shall produce a copy of this judgment along with the request in that regard, within a period of one month from the date of receipt of a copy of this judgment.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007